

Exhibit

1

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA, :
v. : Case. No. 3:15-CR-108
DARIAN RENARD TENSLEY, : Judge: Munley
Defendant. :

MOTION TO DISMISS
INDICTMENT

"Prosecutorial Abuse of Grand Jury Process."
"Pre-Indictment Delay."

FILED
SCRANTON

JAN 29 2016

PER

[Signature]
DEPUTY CLERK

Relief Sought

The defendant, Darian Renard Tensley, moves for an order dismissing the indictment in this action.

Grounds for Relief

The grounds for dismissing the indictment are that the indictment resulted from an abuse of the grand jury and of the process of this Court.

1. The Defendant alleges that the government intentionally delayed the indictment process to obtain an unfair advantage over defendant.
2. The indictment in question was filed June 2, 2015. This is over two years from the time of the alleged offense.
3. The government is abusing the Grand Jury process, because at the time of the arrest, which was in August of 2013, the prosecution had no intention of trying the Defendant on the current indictment. (See DHO Report) Exhibit 1.
4. This gravely injured defendant because the defendant suffered injuries, lost surveillance film, witness and was transferred and

is unable to constitutionally prepare an adequate defense because of the intentional delay, which resulted in Pre-Indictment delay (See, Exhibit 2) Pre-Indictment delay.

5. The willfull and intentional actions resulted in a violation of the Speedy Trial Act, the Speedy trial clock ran far beyond the required 30 day limit prior to indictment once AUSA Smith decided not to prosecute this case. (See DHO Report) Exhibit 1, Todd W. Kerney DHO Officer.

6. This is also a violation of the Due Process Clause as to protect against bringing overly stale criminal charges. The Defendant was grossly prejudiced due to the fact that now over two years later violates U.S.C.S § 3161 time limits and exclusions.

7. If we refer to Exhibit (3) (Incident Report) the staff became aware of this incident on 8/14/13 (time of incident was 6:37am.)

8. If we refer to Exhibit (4) (lock up orders) this is actual proof when the defendant was arrested for/pending investigation by K. Ferguson Lt.

9. Finally, in Exhibit (1) the DHO Report, It was blatantly understood by defendant that this investigation had been released by the FBI, now he's been charged and taken by surprise to defend against charges that are overly stale. The indictment was investigated by J. Seeba on December 10, 2013. The UDC also took place at USP Lewisburg. After the defendant was transferred to USP Allenwood from USP Lewisburg, law enforcement intervention was contacted. It was discovered and documented that this case has been released by the US Attorney's Office.

10. Now after this case was released and documented, the defendant pursued a civil claim for sexual harassment. It is the Defendant's position that the government maliciously targeted him because of this fact then moved for reprocsecution.

11. The defendant also filed assault and battery charges against correctional officers at Lewisburg USP for retaliation the same day. This is a violation of the 8th Amendment right against cruel and unusual punishment. Defendant suffered bruises on his ribs, wrist, hands and ankles. All of this is documented. See, medical files.

13. Lastly, the defendant can show through a series of lock up orders and also a filed tort claim; the government prevented him from obtaining lawful Due Process, and the government retaliated because the defendant took civil action regarding the alleged sexual misconduct and the assault and battery. See, Exhibits (4) and (5) (lock up order dates and the federal tort claim).

The tort claim was filed 2 years after the incident, when the defendant was indicted.

CONCLUSION

It is defendant's contention and argument that AUSA Smith abused the Grand Jury process, upon the defendant filing the civil law suite and pursuing a tort claim behind sexual harassment and assault and battery charges against correction's officers. Now, the government has decided to charge me criminally. The government's actions demonstrates a total disregard to the Speedy Trial Act, and Due Process Clause of the Constitution. Once the DHO sanctioned me for this incident and the FBI/AUSA finished there investigation,

the statute of limitation period for indicting the defendant should began to run. Bottom line, this violated the procedural Due Process and Speedy Trial rights. This prosecution deliberately retaliated on defendant by filing this indictment because I pursued civil remedies.

Remedy

I demand a dismissal and full closure and settlement of all accounts. I pray this Court rules in the interest of justice and Common Law as per Swift v. Tyson.

Darian Renard Tensley

Date: _____

September 28, 2011

Page 5

Attachment 1

ADMINISTRATIVE REMEDY PROCEDURE FOR INMATES
FCC ALLENWOOD INFORMAL RESOLUTION FORM TR.2480108

LSCI _____ FCI _____ USP X

NOTE TO INMATE: You are advised that prior to receiving and filing a Request for Administrative Remedy Form BP-9 [BP-229(13)], you must ordinarily attempt to informally resolve your complaint through your Correctional Counselor. Briefly state ONE complaint below and list what efforts you have made to resolve your complaint informally and state the names of staff contacted.

Issued By: CB (Initials of Correctional Counselor)
 Date Issued To The Inmate: 8/26/14

INMATE'S COMMENTS:

1. Complaint: I'm Tensley Due Process rights were violated due to the waiting and delayed processing of this Incident Report has been handle by BOP personnels (continuation 1 of 3)
2. Efforts you have made to informally resolve: talked to BOP personnel
3. Names of staff you contacted: Admin; Exec; Asst. C. Brown; C.J. Nelson
9m Burke Education Supervisor N.Yarnell

Date Returned to Correctional Counselor: 8/30/14Inmate's Signature41138-018

Reg. Number

8/31/2014

Date

CORRECTIONAL COUNSELOR'S COMMENTS:

1. Efforts made to informally resolve and staff contacted: _____

See AttachedDate BP-9 Issued: 8/5/14J. M. _____
Correctional CounselorA. J. 9/1/14 _____
Unit Manager (Date)

Distribution: If complaint is NOT informally resolved - Forward original attached to BP-9 Form to the Administrative Remedy Coordinator.

Informal Resolution continuation 2 of 3, 20141138-018 Date

continuation of the Complaint; Also due to the Inadequate Law library/Education Department. Dealing with inadequate way inmates have to rely on BOP peronnels for copies to meet deadline. Due to Mrs. Bittenbinder actions I/m Tensley was unable to meet the to meet the (20) days deadline to challenge the Discipline Hearing process being she did not return the Legal materials copies I/m Tensley requested from the Lawlibrary/Education Department. Due to this I/m Tensley was unable to raise issues dealing with this incident Report 2480108 Remedy ID 790536-R1; issue like being trans-seg to two other institutions and the series of incidents that occurred that same day. All this time I/m Tensley was told that his case had been sent to the AUSA/FBI prosecutors office for possible prosecution; yet this starts at F.C. I Schuylkill to U.S.P Lewisburg(SMU) who misplaced the AUSA/FBI paperwork/Documents rather by Mistake or intentionally which I/m Tensley believe it to be the latter! Due to Capt. Taggart and A.W. Wilson whom stated that I/m Tensley was in what they called the "Drag" process which caused I/m Tensley to be moved in the SHU from Institution to Another for All of 13 months unnecessarily and unjust due to the Negligence caused by U.S.P Lewisburg & Seeba! It was cruel and Unfair to even consider to justify why I/m Tensley was made to do disciplinary Segregation as well as the loss of commissary as well as visitation privileges for 6 months due to the elapsed time of the case from 8/14/2013 to Now 7/9/2014; which I/m Tensley stated previously being held under false pretense of an Outside pending Assault Remedy 778637-R1 that this is cruel and unjust punishment and results in a fundamental Scarring of Justice; and Violates due process! Due to the inadequate Law library / Education Department way inmates having to rely on BOP peronnels for copies to meets deadlines; Due to Mrs. Bittenbinder's actions on 8/1/2014 8:12 am Arange SHU cell 115 Mrs. Bittenbinder took I/m Tensley Legal materials under pretense of making copies and returning on 8/1/2014 to which I/m Tensley did not received onto 8/11/2014 1:30 pm Arange cell 107 Education Department Supervisor N. Yarnell to whom had also Provided a staff verification to which the Administrative Remedy coordinator Northeast Regional office still Rejected for Reason 1; Your Appeal is Untimely; Due to Mrs. Bittenbinder I/m Tensley was unable to file his Appeal in a Timely

Informal Resolution continuation 3 of 3. ~~41138-018~~ DATE:

Continuation of the Complaint; Matter; All of the incidents that has taken places since being placed in the SHU as of 8/14/2013; has results in a fundamental carriage of Justice; and violates due process rights as well as constitutional Rights! These are the Remedies that I/m Tensley wants; An official investigation into the Sexual conduct and viewing of All the video recordings that occurred; Expunged from Inmate Discipline file and all sanction be restored; to be compensated for losted property and injuries suffer by BOP personnels members.

Federal Bureau of Prisons

REQUEST FOR ADMINISTRATIVE REMEDY

BY:

Type or use ball-point pen. If attachments are needed, submit four copies. Additional instructions on reverse.

From: Tensley Dorian R
LAST NAME, FIRST, MIDDLE INITIAL41138-018

REG. NO.

2-B

UNIT

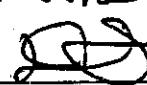
U.S.P Allenwood

INSTITUTION

Part A- INMATE REQUEST My Due Process rights are being Violated due to the Administrative Remedy Coordinator in the Northeast Regional Office not wanting to accept the Staff Verification for Being untimely but he had accepted other Inmates Memorandum for their Untimely who had the same issues dealing with Mrs. Bittendorf actions on 8/1/2014. Any other time I had been Untimely I needed a staff Verification for Being Untimely, Being I did not send the DHO Hearing in instill I had Staff Verification on now not even staff verification are no good. So My Due Process rights are being Violated to continue cover up the Sexual conduct of Ofc. J. Seidel and the action of BOP personnels from F.C.I Schuyler to U.S.P Lewisburg (SMU) who have also made me miss the 1 year window I had to file my 2255 (f)(3) under the Descamps and the physical injuries suffer by BOP personnels members.

9/9/2014

DATE

 - 41138-018

SIGNATURE OF REQUESTER

Part B- RESPONSE

DATE

WARDEN OR REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the Regional Director. Your appeal must be received in the Regional Office within 20 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: 744141-F1

CASE NUMBER: _____

Part C- RECEIPT

Return to: _____

LAST NAME, FIRST, MIDDLE INITIAL

REG. NO.

UNIT

INSTITUTION

SUBJECT: _____

DATE

RECIPIENT'S SIGNATURE (STAFF MEMBER)



**U.S. Department of Justice
Memorandum
Federal Bureau of Prisons**

Federal Correctional Complex, Allenwood

*United States Penitentiary
P.O. Box 3500
White Deer, PA 17887*

October 06, 2014

TO: WHOM IT MAY CONCERN

FROM: *J. Neylon*, J. Neylon, Correctional Counselor

SUBJECT: Late Administrative Remedy Response

On October 03, 2014 inmate Tensley, Darian #41138-018, received a reply for an Institutional Administrative Remedy Appeal during the unit mail call. Specifically, he received case # 794141-F1. The reply by acting Warden, Mr. Charles Smith was dated September 22, 2014. This memorandum is to certify that inmate Tensley did not receive the Wardens response until October 03, 2014.

DARIAN RENARD TENSLEY, 41138-018
ALLENWOOD USP UNT: II QTR: B03-110L
P.O. BOX 3500
WHITE DEER, PA 17887

Date Received
10/3/2014
For house mail

TENSLEY, Darian
Register No.: 41138-018
Appeal No.: 794141-F1
Page 1

Part B - Response

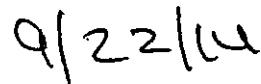
This is in response to your Request for Administrative Remedy in which you claim the Administrative Remedy Coordinator at the Northeast Regional Office inappropriately rejected your regional appeal because it was untimely. You contend the untimeliness was due to the Education Department not providing you copies of documents in a timely manner.

Included with your filing was a memorandum, dated August 11, 2014, the FCC Allenwood Supervisor of Education provided describing a delay in returning legal copies to you as a result of staff being unavailable. If this memorandum was not included with your initial regional appeal, you may wish to resubmit your appeal to include this document. Your other concerns regarding your appeal being rejected as untimely at the regional office were addressed in a previous response, specifically, Administrative Remedy No. #792930-F1.

Accordingly, this response to your Request for Administrative Remedy is provided for Informational Purposes Only. If you are not satisfied with this response, you may appeal to the Regional Director within 20 calendar days of this response.



Donna Zickefoose
Warden



Date

TENSLEY, Darian
Register No.: 41138-018
Appeal No.: 794141-F1
Page 1

Part B - Response

This is in response to your Request for Administrative Remedy in which you claim the Administrative Remedy Coordinator at the Northeast Regional Office inappropriately rejected your regional appeal because it was untimely. You contend the untimeliness was due to the Education Department not providing you copies of documents in a timely manner.

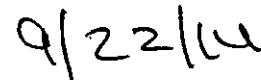
Included with your filing was a memorandum, dated August 11, 2014, the FCC Allenwood Supervisor of Education provided describing a delay in returning legal copies to you as a result of staff being unavailable. If this memorandum was not included with your initial regional appeal, you may wish to resubmit your appeal to include this document. Your other concerns regarding your appeal being rejected as untimely at the regional office were addressed in a previous response, specifically, Administrative Remedy No. #792930-F1.

Accordingly, this response to your Request for Administrative Remedy is provided for Informational Purposes Only. If you are not satisfied with this response, you may appeal to the Regional Director within 20 calendar days of this response.



Donna Zickefoose
Warden

Date



TENSLEY, Darian
Register No.: 41138-018
Appeal No.: 794141-F1
Page 1

Part B - Response

This is in response to your Request for Administrative Remedy in which you claim the Administrative Remedy Coordinator at the Northeast Regional Office inappropriately rejected your regional appeal because it was untimely. You contend the untimeliness was due to the Education Department not providing you copies of documents in a timely manner.

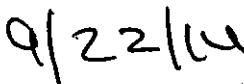
Included with your filing was a memorandum, dated August 11, 2014, the FCC Allenwood Supervisor of Education provided describing a delay in returning legal copies to you as a result of staff being unavailable. If this memorandum was not included with your initial regional appeal, you may wish to resubmit your appeal to include this document. Your other concerns regarding your appeal being rejected as untimely at the regional office were addressed in a previous response, specifically, Administrative Remedy No. #792930-F1.

Accordingly, this response to your Request for Administrative Remedy is provided for Informational Purposes Only. If you are not satisfied with this response, you may appeal to the Regional Director within 20 calendar days of this response.



Donna Zickefoose
Warden

Date



9/22/14

Federal Bureau of Prisons

Type or use ball-point pen. If attachments are needed, submit four copies. One copy of the completed BP-229(13) including any attachments must be submitted with this appeal.

From: Tensley Darian R
LAST NAME, FIRST, MIDDLE INITIAL41138-018
REG. NO.SHU 115
UNITUSP Allenwood
INSTITUTION

Part A - REASON FOR APPEAL This aforementioned appeal is based on the following Factors; 1. DHO Official Todd W. Cerney refused the proper protocol of hearing procedures that was due to me of the condition of false pretenses of several UDC proceeding that were held prior to my being transferred to U.S.P Allenwood and as well as at Allenwood;

1. The blatant disregard of the Sexual contents of ofc. J. Seidel in F.C. I Sahay LLC. II against me of behaviors that was unbecoming a federal employed Correctional staff personnel
2. Inadequate and malicious conditioning of the Disciplinary Utilization Committee displaying Deny material of an alleged investigation to the DHO proceedings by not giving materials with a timely fashion;
3. Discriminatory, Retaliatory, Bias as well as Racial Disparity to having a fair hearing and and to present materials and evidence in behalf of this incident report code violation of Bureau of Prisons behavioral conduct, whereas on or about Aug 14, 2013. Correctional staff officer J. Seidel did stop me to perform an alleged Random Pat Frisks in which this staff blatant placed his hands on my buttocks in a manner that was neither professional or witty

8/12/2014
DATE

(continuation of)

SDS-41138-018
SIGNATURE OF REQUESTER

Part B - RESPONSE

DATE

REGIONAL DIRECTOR

If dissatisfied with this response, you may appeal to the General Counsel. Your appeal must be received in the General Counsel's Office within 30 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

CASE NUMBER: MP10536-R1

Part C - RECEIPT

CASE NUMBER:

Return to:

LAST NAME, FIRST, MIDDLE INITIAL

REG. NO.

UNIT

INSTITUTION

SUBJECT:

DATE

SIGNATURE, RECIPIENT OF REGIONAL APPEAL

Regional Administrative Remedy Appeal Continuation 2 of

or within structure of the guidelines and regulations of the procedural formation for inmate Pat Frisk; whereas I was subsequently taken to the SHU at F.C.I Schuylkill and stripped searched and badgered by staff until I was transferred to U.S.P Lewisburg (SMU) that same morning and further handled in a manner that was unprofessional, harsh and malicious..

The factors of this appeal is based on the procedures as well as behaviors that derived from this staff initial behavior to cause null factors to be presented in UDC procedures; withholding materials and further mannerisms of retaliatory conditions that impeded my fair rights to DHO protocol; also upon arrival at U.S.P Allenwood where such DHO proceedings took place I have been denied the proper staff representative and or material of video surveillance prior to being transferred to either U.S.P Lewisburg or Allenwood SHU.

Exhibits = also provided staff verification for Being Untimely = Exhibit O

- 1) The Discipline Hearing officer Report; were as it states that Lt Seeba misplaced the AUSA/FBI documentation of the released.
 - 2) The DHO ofc Todd W. Cerney did not report every thing I'm Tensley stated about the series of events by BOP staff members. also the injuries I'm Tensley suffer that NO BOP staff would state.
 - 3) The Informal Resolution regarding I'm Tensley being held under false pretense of a pending Assault charge; were as I'm Tensley states he was UDC by C/mf. Kloeser on 12/11/2013; & a SHuck state Incident report is suspended. Remedy Number 778637 RI to which the Warden and Remedy Coordinator have Denied;
- These are the Remedies that I want; 1) An official investigation into this sexual Conduct and Battles occurred; 2) Expunged from Inmate Discipline file and all sanction be restored; 3) to be compensated for losted property and and injuries suffer by BOP staff members.

Regional Administrative Remedy Appeal Continuation 2 of

or within structure of the guidelines and regulations of the procedural formation for inmate Pat Frisk; whereas I was subsequently taken to the SHU at F.C.I Schuykill and stripped searched and badgered by staff until I was trans-seg to USP Lewisburg (SMU) that same morning and further handled in a manner that was unprofessional, harsh and malicious.

The factors of this appeal is based on the procedures as well as behaviors that derived from this staff initial behavior to cause null factors to be presented in UDC procedures; withholding materials and further mannerisms of retaliatory conditions that impeded my fair rights to DHO protocol; also upon arrival at U.S.P Allenwood where such DHO proceedings took place I have been denied the proper staff representative and or material of video surveillance prior to being transferred to either U.S.P Lewisburg or Allenwood SHU.

Exhibits = Also Provided staff verification for Being Untimely = Exhibit O

- 1) The Discipline Hearing Officer Report; were as it states that 1/1 Seeha misplaced the AUSA/FBI documentation of the released.
- 2) The DHO ofc Todd W. Cerney did not report every thing I/m Tensley stated, about the series of events by BOP staff members, also the injuries I/m Tensley suffer that NO BOP staff would state.
- 3) The Informal Resolution regarding I/m Tensley being held under false pretense of a pending Assault charge; were as I/m Tensley states he was UDC by 1/m F. Klosser on 12/11/2013; % stuck state Incident report is 18 suspended. Remedy Number 778637-R1 to which the Warden and Remedy Coordinator have Denied;

These are the Remedy that I want; 1) An official investigation into this sexual conduct and Battles occurred; Expunged from Inmate Discipline file and all sanction be restored; 3 to be compensated for losted property and injuries suffer by BOP staff members.

Regional Administrative Remedy Appeal Continuation 2 of

or within structure of the guidelines and regulations of the procedural formation for inmate Pat Frisk; whereas I was subsequently taken to the SHU at F.C.I Schuylkill and stripped searched and badgered by staff until I was trans-seq to U.S.P Lewisburg (Smu) that same morning and further handled in a manner that was unprofessional harsh and malicious..

The factors of this appeal is based on the procedures as well as behaviors that derived from this staff initial behavior to cause null factors to be presented in UDC procedures; withholding materials and further mannerisms of retaliatory conditions that impeded my fair rights to DHO protocol; also upon arrival at U.S.P Allenwood where such DHO proceedings took place I have been denied the proper staff representative and or material of video surveillance prior to being transferred to either U.S.P Lewisburg or Allenwood SHU.

Exhibits = also Provided staff verification for Being Untimely = Exhibit O

- 1) The Discipline Hearing officer Report; were as it states that Lt Seeba misplaced the AUSA/FBI documentation of the released
- 2) The DHO ofc Todd W. Cerney did not report every thing Ym Tensley stated about the series of events by BOP staff members also the injuries Ym Tensley suffer that NO BOP staff wants to address.
- 3) The Informal Resolution regarding Ym Tensley being held under false pretense of a pending Assault charge; were as Ym Tensley states he was UDC by Sm Eklouser on 12/11/2013 & Shunk states Incident Report is suspended. Remedy # 778637-R1 to which the Warden and Remedy Coordinator have Denied:

These are the Remedies that I want ; 1) An official investigation into this sexual Conduct and Battles occurred ; 2) Expunged from Inmate Discipline file and all sanction be restored ; 3) to be compensated for losted property and injuries suffer by BOP staff members,

Regional Administrative Remedy Appeal Continuation 2 of

or within structure of the guidelines and regulations of the procedural formation for inmate Pat Frisk; whereas I was subsequently taken to the SHU at F.C.I Schuykill and stripped searched and badgered by staff until I was trans-seg to U.S.P Lewisburg (Smu) that same morning and further handled in a manner that was unprofessional harsh and malicious..

The factors of this appeal is based on the procedures as well as behaviors that derived from this staff initial behavior to cause null factors to be presented in UDC procedures; withholding materials and further mannerisms of retaliatory conditions that impeded my fair rights to DHO protocol; also upon arrival at U.S.P Allenwood where such DHO proceedings took place I have been denied the proper staff representative and/or material of video surveillance prior to being transferred to either U.S.P Lewisburg or Allenwood SHU.

Exhibits=also provided staff verification for Being Untimely = Exhibit O

- 1) The Discipline Hearing officer Report; were as it states that 4+ Seccer Misplaced the AUSA/FBI documentation of the released.
- 2) The DHO ofc. Todd W. Cerney did not report everything I/m Tensley stated about the series of events by BOP staff members. also the injuries I/m Tensley suffer that NO BOP staff wants to address.
- 3) The Informal Resolution regarding I/m Tensley being held under false pretense of a pending Assault charge; were as I/m Tensley states he was UDC by Sm F. Kloster on 12/11/2013 4c Shuck states Incident Report is suspended Remedy # 778637-R1 to which the Warden and Remedy Coordinator have Denied

These are the Remedies that I want; 1) An official investigation into this sexual Conduct and Battles occurred; 2) Expunged from Inmate Discipline file and all sanction be restored; 3) to be compensated for losted property and injuries suffer by BOP staff members

REJECTION NOTICE - ADMINISTRATIVE REMEDY

DATE: AUGUST 18, 2014

FROM: ADMINISTRATIVE REMEDY COORDINATOR
NORTHEAST REGIONAL OFFICE

TO : DARIAN RENARD TENSLEY, 41138-018
ALLENWOOD USP UNT: II QTR: Z06-111UDS
P.O. BOX 3500
WHITE DEER, PA 17887

FOR THE REASONS LISTED BELOW, THIS REGIONAL APPEAL
IS BEING REJECTED AND RETURNED TO YOU. YOU SHOULD INCLUDE A COPY
OF THIS NOTICE WITH ANY FUTURE CORRESPONDENCE REGARDING THE REJECTION.

REMEDIY ID : 790536-R1 REGIONAL APPEAL
DATE RECEIVED : AUGUST 14, 2014
SUBJECT 1 : DHO APPEAL - COMBINED (PROCEDURES, EVIDENCE & SANCTIONS)
SUBJECT 2 :
INCIDENT RPT NO: 2480108

REJECT REASON 1: YOUR APPEAL IS UNTIMELY. REGIONAL APPEALS (BP-10)
MUST BE RECEIVED WITHIN 20 DAYS OF THE WARDEN/CCM
RESPONSE OR RECEIPT OF THE DHO REPORT. THIS TIME
INCLUDES MAIL TIME.

SAC (3)
10/7/14

Federal Bureau of Prisons

41138-018

Type or use ball-point pen. If attachments are needed, submit four copies. One copy of the completed BP-229(13) including any attachments must be submitted with this appeal.

From: Tensley Darian R
LAST NAME, FIRST, MIDDLE INITIAL41138-018
REG. NO.3-B
UNITU.S.P Allenwood
INSTITUTION

Part A - REASON FOR APPEAL In tack is the staff memorandum for being Untimely. This is a response to the Warden Zickefoose and the Administrative Remedy Coordinator I/m Tensley and in fact sent a staff memorandum the first time he had sent the memorandum Entitl(l0) by Supervisor of education N. Yarnell, I/m Tensley was still rejected as Untimely and The Administrative Remedy coordinator disregard that staff verification and did not ask I/m Tensley to provide a staff verification for being Untimely as one of the Reason for a Rejection; I/m Tensley had also stated that why his DHO Appeal was untimely Due to Mrs. Bitten Binder actions of not returning his Legal materials (copies) in a timely fashion. These Acts Continue to represent a pattern of events demonstrating intentional retaliation against Inmate Tensley by BOP personnels for the sexual conduct that turned into Retaliatory treatments that has violated I/m Tensley Due process rights secured by Constitution of the United States I/m Tensley Continue to ask for an investigation of All the allegations dealing with the Sexual Conduct, the Assault/battery and the apparent's conduct by BOP personnels

10-16-2014

DATE

 - 41138-018

SIGNATURE OF REQUESTER

Part B - RESPONSE

DATE

If dissatisfied with this response, you may appeal to the General Counsel. Your appeal must be received in the General Counsel's Office within 30 calendar days of the date of this response.

ORIGINAL: RETURN TO INMATE

REGIONAL DIRECTOR

CASE NUMBER: _____

Part C - RECEIPT

CASE NUMBER: _____

Return to: _____

LAST NAME, FIRST, MIDDLE INITIAL

REG. NO.

UNIT

INSTITUTION

SUBJECT: _____

DATE

SIGNATURE, RECIPIENT OF REGIONAL APPEAL

Exhibit O



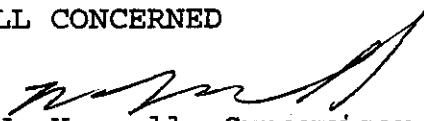
**U.S. Department of Justice
Memorandum
Federal Bureau of Prisons**

Federal Correctional Complex, Allenwood

*United States Penitentiary
P.O. Box 3500
White Deer, PA 17887*

August 11, 2014

MEMORANDUM TO ALL CONCERNED

FROM: 
N. Yarnell, Supervisor of Education

SUBJECT: Legal Copy Delay for Inmate
TENSLEY, DARIAN RENARD Reg. No. 41138-018

While housed in Special Housing Unit, Inmate Tensley, Darian #41138-018 submitted a request for legal copies to the Education Department the last week in July 2014. Due to staff being on leave, these legal copies were not returned to this inmate until August 11, 2014.

Institution: USP Allenwood, PA	Incident Report number: 2480108	
NAME OF INMATE: TENSELEY, Darian	REG. NO. 441138-018	UNIT: III A
Date of Incident Report: 8/14/13	Offense Code: 224	

Date of Incident: 8/14/13

Summary of Charges: Assaulting any person

I. NOTICE OF CHARGE(S)

- A. Advanced written notice of charge (copy of Incident Report) was given to the inmate on (date) 8/14/13 at (time) 4:00 pm by (staff member) K. Ferguson
- B. The DHO Hearing was held on (date) 7/9/14 at (time) 0830
- C. The inmate was advised of the rights before the DHO by (staff member): F. Klosen on (date) 12/11/13 and copy of the advisement of rights form is attached.

II. STAFF REPRESENTATIVE

- A. Inmate waived right to staff representative. Yes X No _____
- B. Inmate requested staff representative and _____ appeared.
- C. Requested staff representative declined or could not appear but inmate was advised of option to postpone hearing to obtain another staff representative with the result that:
- D. Staff representative _____ was appointed.
- E. Staff representative statement: N/A

III. PRESENTATION OF EVIDENCE

- A. Inmate _____ (admits) X (denies) _____ (neither admits nor denies) the charge(s)
- B. Summary of inmate statement:

At the onset of this hearing, this inmate was advised of his Rights before the DHO, indicated he understood them and chose to provide the following statement:

"The officer brushed his hand across my buttocks. I knocked his hand away. He tried to push me against the wall. When he touched my buttocks, it caught me by surprise."

The DHO recognized delayed processing in this case. This incident was alleged to have occurred on August 14, 2013. The report was written immediately following and delivered to the inmate on that same date. Given the charged act, the case was referred to outside law enforcement for possible criminal charges. TENSELEY was then transferred from FCI Schuylkill to USP Lewisburg. The incident was investigated by Lt. J. Seeba, on December 10, 2013, at 12:00 pm. The UDC also took place at USP Lewisburg. This occurred on December 11, 2013. After TENSELEY was transferred from Lewisburg to USP Allenwood, contact was made regarding outside law enforcement intervention, as this information was not supplied with the original documentation. It was discovered and documented that this case had been released by the U S Attorney's Office for processing. Documentation of the December 10, 2013, investigation by Lt. Seeba did not arrive at Allenwood until July 1, 2014. Upon this, the DHO believed all necessary documentation was included and the case proceeded.

The inmate provided no documentary evidence for consideration.

C. Witnesses:

1. The inmate requested witnesses. Yes No X _____
2. The following persons were called as witness at this hearing and appeared:
3. A summary of the testimony of each witness is attached.
4. The following persons requested were not called for the reason(s) given:
5. Unavailable witnesses were requested to submit written statements and those statements received were considered.

Name of Inmate: TENSLEY, Darian

Reg. No.: 41138-018

Hearing Date: 7/9/14

D. Documentary Evidence: In addition to the Incident Report and Investigation, the DHO considered the following documents:

Memorandum from J. Seeba, dated July 1, 2014.

E-mail message from J. Hepner, dated June 18, 2014.

Evidence photographs taken on August 14, 2013.

BOP Health Services Clinical Encounter for TENSLEY, Darian # 41138-018.

E. Confidential information was used by DHO in support of his findings, but was not revealed to the inmate. The confidential information was documented in a separate report. The confidential information has been (confidential informants have been) determined to be reliable because:

IV. FINDINGS OF THE DHO

- A. The act was committed as charged.
 B. The following act was committed:
 C. No prohibited act was committed.
 D. Not Psychologically Responsible.

V. SPECIFIC EVIDENCE RELIED ON TO SUPPORT FINDINGS (Physical evidence, observations, written documents, etc.):

During this discipline hearing, the following information was evidentiary and documented by the DHO in his findings.

TENSLEY's involvement in the incident, as noted in Section 11 of Incident Report 2480108, provided by J. Seidel, CTR Officer, was reviewed. Paraphrased, J. Seidel writes: On 8/4/14, at or about 6:37 am, I was conducting a random pat search on inmate TENSLEY, Darian # 41138-018, when he spun around and knocked my hands away from his body. I attempted to place inmate TENSLEY against the wall to apply hand restraints. Inmate TENSLEY became very aggressive and punched me in the face with a closed fist causing my nose and mouth to bleed. Assistance was called and inmate TENSLEY was restrained with the least amount of force necessary.

Inculpatory evidence in the form of photographs of J. Seidel, dated August 14, 2013 was reviewed. In this, Officer Seidel was noted with blood on his mouth and nose.

*Although not brought up at this DHO hearing, the DHO recognized TENSLEY had made a reference to video surveillance review at the UDC from December 11, 2013. Contact was made with FCI Schuylkill regarding possible video surveillance of the dining hall at approximately 6:37 am, on August 14, 2013. Captain J. Hepner, provided documentation stating there was no video footage as there were no cameras in the dining hall when the incident occurred.

Upon questioning by the DHO, TENSLEY denied the charge. He elaborated upon his plea by stating, "The officer brushed his hand across my buttocks. I knocked his hand away. He tried to push me against the wall. When he touched my buttocks, it caught me by surprise." The DHO did not find TENSLEY's testimony compelling in showing the charged act not committed. It was believed, during a pat search, contact with the buttocks would likely occur. The DHO did not believe Officer Seidel's pat search of TENSLEY warranted the violent reaction as documented by Seidel. Ultimately, TENSLEY struck Officer Seidel in the face which caused his mouth and nose to bleed. As such, the DHO supported the charged act.

After the consideration of evidence documented above, the DHO has drawn the conclusion the greater weight of the evidence, listed in the paragraphs above, supports the finding, TENSLEY, Darian, Register No. 41138-018, committed the prohibited acts of Assaulting any person, Code 224, on 8/14/13, at or about 6:37 am, dining hall, at FCI Schuylkill, PA.

U.S. DEPARTMENT OF JUSTICE

Exhibit 1

FEDERAL BUREAU PRISONS

Name of Inmate: TENSLEY, Darian	Reg. No.: 41138-018	Hearing Date: 7/9/14
---------------------------------	---------------------	----------------------

VI. SANCTION(S) OR ACTION(S) IMPOSED:

Code 224 - 60 Days disciplinary segregation.
27 Days DGCT - 010 P.
30 Days FFNVGCT - 010 P
6 Months loss of commissary privileges, concluding, 2/12/15.
6 Months loss of visitation privileges, concluding, 1/8/15.

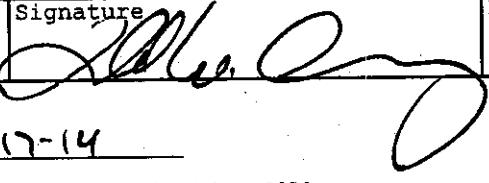
*All sanctions are served consecutive to like sanctions previously imposed.

VII. REASON FOR EACH SANCTION OR ACTION TAKEN:

TENSLEY's assault of a staff member indicates his proclivity for violence. Striking a staff member threatens the safety of all involved and severely hampers the ability of the victim to effectively maintain their area of responsibility. This type of behavior will not be tolerated. Accordingly, disciplinary segregation, disallowed good conduct time and forfeiture of non-vested good conduct time are sanctioned in an effort to punish TENSLEY for his behavior, while loss of commissary and visitation privileges will hopefully deter him from actions of this type in the future.

VIII. APPEAL RIGHTS: The inmate has been advised of the findings, specific evidence relied on, sanction(s)/action(s) and reasons for the action. The inmate has been advised of the right to appeal this action within 20 calendar days under the Administrative Remedy Procedure. A copy of this report has been given to the inmate.

IX. Discipline Hearing Officer

Printed Name	Signature	Date
Todd W. Cerney		7-16-14

Delivered to Inmate:  7-17-14

Prescribed by P5270

Replaces BP-304 (52) of JAN 88

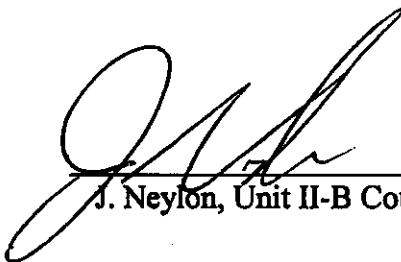
NAME: Tensley, Darian
Reg. No.: 41138-018
Unit: II-B

United States Penitentiary, Allenwood



This is in response to your informal resolution wherein you state your due process rights were violated based upon delayed processing of an incident report.

You filed an administrative remedy appealing the DHO sanction you received from incident report number 2480108. Accordingly, your Regional appeal remedy ID 790536-R1 was denied due to the fact your appeal was not received within the 20 day time frame. Your claim the untimeliness was due to Bureau staff, and lack of legal materials available to you is invalid. You were made aware the administrative remedy must be received at the regional office within 20 days, including mail time. Your request for administrative remedy in this case is denied.



J. Neylon, Unit II-B Counselor

September 04, 2014

Date

Administrative Detention Pending investigation of
violation

Date: USP Lewisburg 8/14/13

Date: USP Allenwood 5/19/14

Date USP Allenwood 6/17/14

Exhibit F

ADMINISTRATIVE DETENTION ORDER
U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

U.S.P. Lewisburg, Pa.
InstitutionDate/Time: 08/14/2013 1130

TO: Special Housing Unit Officer

FROM: K.Ferguson, Lieutenant

SUBJECT: Placement of inmate Tensley, Darian Reg.#41138-018 Administrative Detention:

- (a) Is pending a hearing for a violation of Bureau regulations;
 (b) Is pending investigation of a violation of Bureau regulations;
 (c) Is pending investigation or trial for a criminal act;
 (d) Is to be admitted to Administrative Detention

(1) Since the inmate has requested admission for protection;

I hereby request placement in Administrative Detention for my own protection.

Inmate Signature/Register No.: _____

Staff Witness Printed Name Signature: _____

(2) Since a serious threat exists to individual's safety as perceived by staff, although person has not requested admission; referral of the necessary information will be forwarded to the UDC/DHO for appropriate hearing.

- (e) Is pending transfer or is in holdover status during transfer.
 (f) Is pending classification; or psychology clearance.
 (g) Is terminating confinement in Disciplinary Segregation and has been ordered into administrative Detention by the Warden's designee.
 (h) DHO Sanction-

It is this officer's decision based on all the circumstances that the above named inmate's continued presence in the general population poses a serious threat to life, property, self, staff, other inmates, or to the security or orderly running of the institution because:

You are being placed in Administrative Detention Pending investigation of violation of Bureau regulations.

The inmate received a copy of this Order on (date/time) 08-14-13 2100

Staff Witness Signature/Printed

Name: R. Miller, LT/

*In the case of DHO action, reference to that order is sufficient. In other cases, the officer will make an independent review and decision, which is documented here. Record Copy - Inmate Concerned (not necessary if placement is a result of holdover status); Copy - Captain; Copy - Unit Manager; Copy - Operation Supervisor - Administrative Detention Unit; Copy - Central File

3 of 19 08-41138-018

In house Mail
Unknown to
3-12-2014 time

BP-S30-8.052 ADMINISTRATIVE DETENTION ORDER CDFRM

MAY 94
U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

USP ALLENWOOD
Institution

Date/Time: May 19, 2014 (8:00PM)

2B

TO: Special Housing Unit Officer *[Signature]*

FROM: J. Nickerson / Lieutenant *[Signature]*, (Name/Title)

SUBJECT: Placement of Tensley, Darian, Reg. No. #41138-018, in Administrative Detention

- (a) Is pending a hearing for a violation of Bureau regulations;
- (b) Is pending investigation of a violation of Bureau regulations;
- (c) Is pending investigation or trial for a criminal act;
- (d) Is to be admitted to Administrative Detention

(1) Since the inmate has requested admission for protection;

I hereby request placement in Administrative Detention for my own protection.

Inmate Signature/Register No.: _____

Staff Witness Printed Name Signature: _____

- (2) Since a serious threat exists to individual's safety as perceived by staff, although person has not requested admission; referral of the necessary information will be forwarded to the UDC/DHO for appropriate hearing.

(e) Is pending transfer or is in holdover status during transfer.

(f) Is pending classification; or

(g) Is terminating confinement in Disciplinary Segregation and has been ordered into Administrative Detention by the Warden's designee.

It is this officer's decision based on all the circumstances that the above named inmate's continued presence in the general population poses a serious threat to life, property, self, staff, other inmates, or to the security or orderly running of the institution because*
You are being placed in the SPECIAL HOUSING UNIT Administrative Detention pending classification with no central file.

Therefore, the above named inmate is to be placed in Administrative Detention until further notice. The inmate received a copy of this Order on (date/time) May 19, 2014 (8:00PM)

Staff Witness Signature/Printed Name *[Signature]* /Tyson, S Date 5/19/14

*In the case of DHO action, reference to that order is sufficient. In other cases, the officer will make an independent review and decision, which is documented here.

Record Copy - Inmate Concerned (not necessary if placement is a result of holdover status); Copy - Captain; Copy - Unit Manager; Copy - Operation Supervisor - Administrative Detention Unit; Copy - Central File

(This form may be replicated via WP)

Replaces BP-308 (52) of JAN 88

6/11/2014 AM time

SHU Cell #5

C/C K. Bowersox

10 of 19 D# 41138-018

BP-S308.052 ADMINISTRATIVE DETENTION ORDER CDFRM

MAY 94
U.S. DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISCS

USP Allenwood
Institut

Date/Time: June 17, 2014 12:0

TO: Special Housing Unit Officer

FROM: J Marr, Lieutenant, (Name/Title)

SUBJECT: Placement of Tensley Reg No. 41138-018, in Administrative Detention

- (a) Is pending a hearing for a violation of Bureau regulations;
 (b) Is pending investigation of a violation of Bureau regulations;
 (c) Is pending investigation or trial for a criminal act;
 (d) Is to be admitted to Administrative Detention

- (1) Since the inmate has requested admission for protection;

I hereby request placement in Administrative Detention for my own protection.

Inmate Signature/Register No.: _____

Staff Witness Printed Name Signature: _____

- (2) Since a serious threat exists to individual=s safety as perceived by staff, altho person has not requested admission; referral of the necessary information will forwarded to the UDC/DHO for appropriate hearing.

- (e) Is pending transfer or is in holdover status during transfer.

- (f) Is pending classification; or SIS Investigation.

- (g) Is terminating confinement in Disciplinary Segregation and has been ordered i Administrative Detention by the Warden=s designee.

It is this officer=s decision based on all the circumstances that the above named inmate=s contin presence in the general population poses a serious threat to life, property, self, staff, other inmates or to the security or orderly running of the institution because*

You are being placed in the Special Housing Unit pending SIS investigation

Therefore, the above named inmate is to be placed in Administrative Detention until further notice.

inmate received a copy of this Order on (date/time) June 17, 2014 12:05pm

Staff Witness Signature/Printed Name D. Temple Date 06/17/14

*In the case of DHO action, reference to that order is sufficient. In other cases, the officer will m an independent review and decision, which is documented here.

Record Copy - Inmate Concerned (not necessary if placement is a result of holdover status); Copy - Captain Copy - Unit Manager; Copy - Operation Supervisor - Administrative Detention Unit; Copy - Central F

(This form may be replicated via WP)

Replaces BP-308(52) of JAN

115 of 1980-41138-018

-S288.052 INCIDENT REPORT CDFRM

G-324

G-324

DEPARTMENT OF JUSTICE

FEDERAL BUREAU OF PRISONS

2480 108

1. Name Of Institution: FCI SCHUYLKILL

Part I - Incident Report

2. Name Of Inmate Tensley, Darian	3. Register Number 41138-018	4. Date Of Incident 8-14-13	5. Time Approx. 6:37 am
6. Place Of Incident FCI Dining Hall	7. Assignment PM Cook	8. Unit 3A	
9. Incident: Assaulting any person		10. Code: 224	

11. Description Of Incident (Date: 8-14-13 Time: 6:37 am Staff became aware of incident) On 8-14-13 at approximately 6:37 am I was conducting a random pat search on inmate Tensley #41138-018 when he spun around and knocked my hands away from his body. I attempted to place inmate Tensley against the wall to apply hand restraints. Inmate Tensley became very aggressive and punched me in the face with a closed fist causing my nose and mouth to bleed. Assistance was called and inmate Tensley was restrained with the least amount of force necessary.

12. Signature Of Reporting Employee 	Date And Time 8-14-13 7:30 am	13. Name And Title (Printed) J. Seidel CTR Officer
14. Incident Report Delivered To Above Inmate By 	15. Date Incident Report Delivered 8-14-13	16. time Incident Report Delivered 4:00 PM

Part II - Committee Action 12/10/2013

1700 pm

17. Comments Of Inmate To Committee Regarding Above Incident

18. A. It Is The Finding Of The Committee That You: ____ Committed The Following Prohibited Act. ____ Did Not Commit A Prohibited Act.	B. The Committee Is Referring The Charge(s) To The DHO For Further Hearing. C. The Committee Advised The Inmate Of Its Finding And Of The Right To File An Appeal Within 20 Calendar Days.
--	--

19. Committee Decision Is Based On The Following Information

20. Committee action and/or recommendation if referred to DHO (Contingent upon DHO finding inmate committed prohibited act)

21. Date And Time Of Action _____
 His Name Certifies Who Sat On The UDC And That The Completed Report Accurately Reflects
 The UDC Proceedings.)

(The UDC Chairman's Signature Next To

Chairman (Typed Name/signature)

Member (Typed Name)

Member (Typed Name)

Record Copy - Central File Record; Copy - DHO; Copy - Inmate After UDC Action; Copy - Inmate
 Within 24 Hours Of Part I Preparation
 (This Form May Be Replicated Via WP)

Replaces BP-288(52) Of Jan 88

2 of 19 41138-018

Exhibit {
3}

LEW 1330.16A
ADMINISTRATIVE REMEDY PROGRAM
ATTACHMENT A

INFORMAL RESOLUTION ATTEMPT # 08 -IF- 14

In accordance with Program Statement 1330.16, Administrative Remedy ~~Confinement~~, this form will serve as documentation by the respective staff member and his unit manager to indicate an informal attempt to resolve the complaint of the following inmate:

NAME: Tensley, Marian Reg. No. 41138-018
FORM TO INMATE: 04-24-2014 STAFF G. Shuck UNIT Z-H Block
(Date) (Name) (Unit)

A BP-229(13) WILL NOT ORDINARILY BE ACCEPTED WITHOUT THIS COMPLETED FORM ATTACHED

1. Nature of Complaint (to be completed by inmate):

I'm being held under false pretense of a pending Assault charge. On 11/14/2013 I was interviewed by a FBI Investigator. On 12/10/2013 I was given an Incident Report by S.T.S. On 12/11/2013 I was U.D.C. by S/m F. Klosner Upon information and belief he informed me that the pending case had been (Released) even shown me the Document stating this. Being I asked him if the pending Assault had if the pending Assault had been dismissed. Now BOP staff members are continue to use this against me being don't understand dealing with a LWTQ and learning disability.
6.3.2. Constitutionality of Conditions of Isolated Confinement It States that Appointed Counsel must be provided to prisoner who are in Administrative Detention pending investigation and trial on felonies committed in prison. Counsel must be appointed prior to indictment. In the Merriam Webster Dictionary (R.E.I.-E.A.-S.E) means 1= to set free from confinement or restraint = Also = dismiss (released from her job) to relieve from something that oppresses confines, or burdens. 2= release 1= Relief or deliverance from sorrow, suffering, or trouble 2= discharge from an obligation or responsibility 3= An act of setting free; the state of being free 4= A document effecting a legal release = Article II, NO ONE shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence under national or international law at the time when it was committed NOR shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed. Abuse of process = I've been waiting to see DHO Since 12/11/2013 its been 9 months now. This time could be credit to my sanctions. ~~Retaliation~~ Continuation of Retaliatory treatment

§ 3161. Time limits and exclusions

- (a) In any case involving a defendant charged with an offense, the appropriate judicial officer, at the earliest practicable time, shall, after consultation with the counsel for the defendant and the attorney for the Government, set the case for trial on a day certain, or list it for trial on a weekly or other short-term trial calendar at a place within the judicial district, so as to assure a speedy trial.
- (b) Any information or indictment charging an individual with the commission of an offense shall be filed within thirty days from the date on which such individual was arrested or served with a summons in connection with such charges. If an individual has been charged with a felony in a district in which no grand jury has been in session during such thirty-day period, the period of time for filing of the indictment shall be extended an additional thirty days.
- (c) (1) In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs. If a defendant consents in writing to be tried before a magistrate [United States magistrate judge] on a complaint, the trial shall commence within seventy days from the date of such consent.
- (2) Unless the defendant consents in writing to the contrary, the trial shall not commence less than thirty days from the date on which the defendant first appears through counsel or expressly waives counsel and elects to proceed pro se.

- (a) In any case involving a defendant charged with an offense, the appropriate judicial officer, at the earliest practicable time, shall, after consultation with the counsel for the defendant and the attorney for the Government, set the case for trial on a day certain, or list it for trial on a weekly or other short-term trial calendar at a place within the judicial district, so as to assure a speedy trial.
- (b) Any information or indictment charging an individual with the commission of an offense shall be filed within thirty days from the date on which such individual was arrested or served with a summons in connection with such charges. If an individual has been charged with a felony in a district in which no grand jury has been in session during such thirty-day period, the period of time for filing of the indictment shall be extended an additional thirty days.
- (c) (1) In any case in which a plea of not guilty is entered, the trial of a defendant charged in an information or indictment with the commission of an offense shall commence within seventy days from the filing date (and making public) of the information or indictment, or from the date the defendant has appeared before a judicial officer of the court in which such charge is pending, whichever date last occurs. If a defendant consents in writing to be tried before a magistrate [United States magistrate judge] on a complaint, the trial shall commence within seventy days from the date of such consent.
- (2) Unless the defendant consents in writing to the contrary, the trial shall not commence less than thirty days from the date on which the defendant first appears through counsel or expressly waives counsel and elects to proceed pro se.
- (d) (1) If any indictment or information is dismissed upon motion of the defendant, or any charge contained in a complaint filed against an individual is dismissed or otherwise dropped, and thereafter a complaint is filed against such defendant or individual charging him with the same offense or an offense based on the same conduct or arising from the same criminal episode, or an information or indictment is filed charging such defendant with the same offense or an offense based on the same conduct or arising from the same criminal episode, the provisions of subsections (b) and (c) of this section shall be applicable with respect to such subsequent complaint, indictment, or information, as the case may be.

a. Pre-Indictment Delay

Under the Speedy Trial Act, "[a]ny information or indictment charging an individual with the commission of an offense shall be filed within thirty days from the date on which such individual was arrested . . ." 18 U.S.C. § 3161(b). Various periods are excluded from the thirty day clock, including, "[a]ny period of delay resulting from a continuance granted by any judge on his own motion or at the request of the defendant or his counsel . . ." 18 U.S.C. § 3161(h)(7)(A). However, "[n]o such period of delay resulting from a continuance granted by the court . . . shall be excludable . . . unless the court sets forth, in the record of the case, either orally or in writing, its reasons for finding that the ends of justice served by the granting of such continuance outweigh the best interests of the public and the defendant in a speedy trial." *Id.*

Villalobos claims that the pre-indictment continuances lacked the specific reasoning required by the Speedy Trial Act. Without valid continuances, Villalobos argues, the Speedy Trial clock ran far beyond the required 30 day limit prior to indictment.

03CASES

1

Exhibit (2)

Although the statute of limitations provides the defendants with primary guarantee against the bringing of overly stale criminal charges, the Due Process Clause also affords protection against "[o]ppressive **pre-indictment delay** within the applicable limitations period . . ." *Ismaili*, 828 F.2d at 167. The sanction for violation of this right is dismissal, and this requires that the defendant prove two essential facts: "(1) that the government intentionally delayed bringing the indictment in order to gain some advantage over him and that (2) this intentional delay caused the defendant actual prejudice." *Id.*

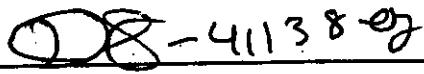
Exhibit (2)

03CASES

1

© 2015 Matthew Bender & Company, Inc., a member of the LexisNexis Group. All rights reserved. Use of this product is subject to the restrictions and terms and conditions of the Matthew Bender Master Agreement.

41138018

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.	FORM APPROVED OMB NO. 1105-0008								
<p>1. Submit to Appropriate Federal Agency: DEP'T OF JUSTICE NORTHEAST REGIONAL OFFICE U.S.CUSTOMS HOUSE, TORT Div. 2 ND. & chestnut streets, HPIIADELPHIA, PA. 19106</p>		<p>2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. TENSEY DARIAN, REG 41138 - 018 U.S.P.ALLENWOOD, P.O.BOX 3000 WHITE DEER, PA. 17887</p>									
3. TYPE OF EMPLOYMENT	4. DATE OF BIRTH	5. MARITAL STATUS	6. DATE AND DAY OF ACCIDENT								
<input type="checkbox"/> MILITARY <input checked="" type="checkbox"/> CIVILIAN	6/26/1977		8/14/2013								
<p>7. TIME (A.M. OR P.M.) Approxm. 6:00 am.</p> <p>8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). I acknowledge receipt dated 7/6/2015, of notice to six month determination and adjudication on claim No. TRT-NER-2015-05026 date of claim 7/6/2015. I hereby incorporate the above referenced original complaint as though fully stated herein. 1) I amend to clarify the judgment which has been misconstrued in various ways. 2) In section 8 of original complaint the first facility mentioned in the continues injury and or campaign of terror was U.S.P.SCHUYKILL, not U.S.P. LEWISBURG as the notice suggest see continuos page number (8-A)</p>											
<p>9. PROPERTY DAMAGE</p> <p>NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code).</p> <p>N/A</p> <p>BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side).</p> <p style="text-align: center;">AMENDED COMPLAINT UNDER § 14.2 (C)</p>											
<p>10. PERSONAL INJURY/WRONFUL DEATH</p> <p>STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. I incorporate the original FTC filed unde NO. TRT-NER- 2015-05026 as though being fully stated herein.</p>											
<p>11. WITNESSES</p> <table border="1"> <tr> <td>NAME</td> <td colspan="3">ADDRESS (Number, Street, City, State, and Zip Code)</td> </tr> <tr> <td></td> <td colspan="3"></td> </tr> </table>				NAME	ADDRESS (Number, Street, City, State, and Zip Code)						
NAME	ADDRESS (Number, Street, City, State, and Zip Code)										
<p>12. (See Instructions on reverse). AMOUNT OF CLAIM (In dollars)</p> <table border="1"> <tr> <td>12a. PROPERTY DAMAGE</td> <td>12b. PERSONAL INJURY</td> <td>12c. WRONGFUL DEATH</td> <td>12d. TOTAL (Failure to specify may cause forfeiture of your rights).</td> </tr> <tr> <td>N/A</td> <td></td> <td>N/A</td> <td>\$ 100,000,</td> </tr> </table>				12a. PROPERTY DAMAGE	12b. PERSONAL INJURY	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights).	N/A		N/A	\$ 100,000,
12a. PROPERTY DAMAGE	12b. PERSONAL INJURY	12c. WRONGFUL DEATH	12d. TOTAL (Failure to specify may cause forfeiture of your rights).								
N/A		N/A	\$ 100,000,								
<p>I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.</p>											
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side).		13b. PHONE NUMBER OF PERSON SIGNING FORM	14. DATE OF SIGNATURE								
		N/A									
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM		CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS									
The claimant is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the Government. (See 31 U.S.C. 3728).		Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)									

THIS IS CONTINUOS PAGE NUMBER (8- A)

TENSEY DARIAN ,REG# 41138-018
U.S.P.ALLENWOOD,
P.O.BOX 3000
WHITE DEER ,PA. 17887

dated 7/ /1025

Claim NO: TRT_NER 2015-05026

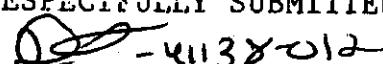
3) I determined the initial assault to be one which is sexual in nature, and degree, but the region downplays / wilfully chooses / turns a blind eye / neglects to properly call it what it was and as I have perceived and reported the incident as a "SEXUAL ASSAULT" ,
4) Although assault and battery suggested by the region is also true , it is only secondary to the initial injury, see exhibit # (4- 1) of the original FTC., not provided herein rather in the file as previously submitted on 7/6/2015, and exhibit # (5- 1) also found in the same, of the events latter in the same day at the receiving facility of U.S.P.Lewisburg for continues tortures and physical assaults ,enter alia, among other things.

wherefore the corrections to the properly named facility and cause of action to sexual assault must be made.

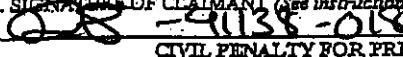
VERIFICATION

I, TENSEY DARIAN, DO HEREBY VERIFY THAT THE FORGOING IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, BELIEF AND INFORMATION UNDER PENALTY OF PERJURY (28 U.S.C. § 1746) THIS 22 DAY OF July 2015

RESPECTFULLY SUBMITTED


00-41138-012

TENSEY DARIAN
U.S.P.ALLENWOOD
P.O.BOX 3000
WHITE DEER , PA. 17887

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008 EXPIRES 5-31-05
1. Submit To Appropriate Federal Agency: U.S. DEP'T OF JUSTICE REGIONAL DIRECTOR, NORTHEAST REGIONAL OFFICE U.S.CUSTOMSHOUSE, TORT Div., 2nd & Chestnut strees, Phila, PA. 19106		2. Name, Address of claimant and claimant's personal representative, if any. (See instructions on reverse.) (Number, street, city, State and Zip Code) TENSEY DARIAN, REG. 41138-018 U.S.P. ALLENWOOD, P.O. BOX 3000 WHITE DEER, PA. 17887		
3. TYPE OF EMPLOYMENT <input checked="" type="checkbox"/> MILITARY <input type="checkbox"/> CIVILIAN X	4. DATE OF BIRTH 6/26/1977	5. MARITAL STATUS	6. DATE AND DAY OF ACCIDENT 8/14/2013	7. TIME (A.M. OR P.M) Apprxm. 6:00 AM.
8. Basis of Claim (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof) (Use additional pages if necessary) On 8/14/2013, I was entering the mess hall at U.S.P.SCHUYKILL, when c/o J.Seidel began a pat down search of me and suddenly, not only did he pull my pants up between my buttocks but also his hand causing me to slap his hand away and upon turning around on Seidel I was punched in the left eye, he rammed my head into the window causing me to black out and he also used racial slurs. This is Sexual assault & harrasment, Physical assault and battery, Excessive Use of force, ordinary negligence, abuse of process, discrimination, See continued page#(8-2) herein				
9. PROPERTY DAMAGE NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, street, city, State, and Zip Code)				
N/A BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF DAMAGE AND THE LOCATION WHERE PROPERTY MAY BE INSPECTED. (See instructions on reverse side)				
N/A				
10. PERSONAL INJURY/WRONFUL DEATH STATE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE NAME OF INJURED PERSON OR DECEDENT Loss of sleep, fear, mistrust, nervous, tense, frequent nightmares accompanied with severe sweating, stomachaches and the pre-existing conditions to my mental deficits being multiplied to such conditions as depression, borderline personality disorder, see continued page(8-3)				
11. WITNESSES NAME _____ ADDRESS (Number, street, city, State, and Zip Code)				
12. (See instructions on reverse) AMOUNT OF CLAIM (in dollars)				
12a. PROPERTY DAMAGE N/A	12b. PERSONAL INJURY \$100,000,	12c. WRONGFUL DEATH N/A	12d. TOTAL (Failure to specify may cause for failure of your rights) \$100,000,	
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE ACCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM				
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side) 		13b. Phone number of signatory N/A	14. DATE OF CLAIM 7/6/2015	
CIVIL PENALTY FOR PRESENTING FRAUDULENT FRAUDULENT CLAIM The claimant shall forfeit and pay to the United States the sum of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the United States. (See 31 U.S.C. 3729.)		CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS Imprisonment for not more than five years and shall be subject to a fine of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages sustained by the United States. (See 18 U.S.C.A. 287.)		

PRIVACY ACT NOTICE

This Notice is provided in accordance with the Privacy Act, 5 U.S.C. 552a(c)(3), and concerns the information requested in the letter to which this Notice is attached.

A. **Authority:** The requested information is solicited pursuant to one or more of the following: 5 U.S.C. 301, 28 U.S.C. 501 et seq., 28 U.S.C. 2671 et seq., 18 C.F.R. Part 14.

- B. **Principal Purpose:** The information requested is to be used in evaluating claims.
- C. **Routine Use:** See the Notices of Systems of Records for the agency to whom you are submitting this form for further information.
- D. **Effect of Failure to Respond:** Disclosure is voluntary; however, failure to supply the requested information or to execute this form may render your claim "invalid".

INSTRUCTIONS

A CLAIM SHALL BE DEEMED TO HAVE BEEN PRESENTED WHEN A FEDERAL AGENCY RECEIVES FROM A CLAIMANT, HIS DULY AUTHORIZED AGENT, OR LEGAL REPRESENTATIVE AN EXECUTED STANDARD FORM 95 OR OTHER WRITTEN NOTIFICATION OF AN INCIDENT, ACCOMPANIED BY A CLAIM FOR MONEY DAMAGES IN A SUM CERTAIN FOR INJURY TO OR LOSS OF

Any instructions or information necessary in the preparation of your claim will be furnished, upon request, by the office indicated in item #1 on the reverse side. Complete regulations pertaining to claims asserted under the Federal Tort Claims Act can be found in Title 28, Code of Federal Regulations, Part 14. Many agencies have published supplemental regulations also. If more than one agency is involved, please state each agency.

The claim may be filed by a duly authorized agent or other legal representative, provided evidence satisfactory to the Government is submitted with said claim establishing express authority to act for the claimant. A claim presented by an agent or legal representative must be presented in the name of the claimant. If the claim is signed by the agent or legal representative, it must show the title or legal capacity of the person signing and be accompanied by evidence of his/her authority to present a claim on behalf of the claimant as agent, executor, administrator, parent, guardian or other representative.

If claimant intends to file claim for both personal injury and property damage, claim for both must be shown in item #12 of this form.

The amount claimed should be substantiated by competent evidence as follows:

(a) In support of the claim for personal injury or death, the claimant should submit a written report by the attending physician, showing the nature and extent of injury, the nature and extent of treatment, the degree of permanent disability, if any, the prognosis, and the period of hospitalization, or incapacitation, attaching itemized bills for medical, hospital, or burial expenses actually incurred.

Public reporting burden for this collection of information is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information, including suggestions for reducing this burden, to Director, Tort Claims Branch

Civil Division
U.S. Department of Justice
Washington, DC 20530

INSURANCE COVERAGE

In order that subrogation claims be adjudicated, it is essential that the claimant provide the following information regarding the insurance coverage of his vehicle or property.

13. Do you carry accident insurance? Yes, if yes give name and address of insurance company (Number, street, city, State, and Zip Code) and policy number. No

N/A

16. Have you filed claim on your insurance carrier in this instance, and if so, is it full coverage or deductible?

17. If deductible, state amount

N/A

N/A

18. If claim has been filed with your carrier, what action has your insurer taken or proposes to take with reference to your claim? (It is necessary that you ascertain these facts.)

N/A

19. Do you carry public liability and property damage insurance? Yes, if yes, give name and address of insurance carrier (Number, street, city, State, and Zip Code) No

N/A

'THIS IS CONTINUEU PAGE #(8-2)

TENSEY DARIAN,
REG# 41138-018
U.S.P.ALLENWOOD
P.O.BOX 3000
WHUTE DEER,PA. 17887

in violation of the 8th amendment guarantee to be free from wanton infliction of pain,deliberate indifference to a serious medical need medical Malpractice and neglect and ordinary neglect. denied due process.

2) as a consequence ,durring the initial medical evaluation or examination, I/M was not permitted to report the sexual misconduct to the CEO per B.O.P. policy thus staff acted in concert to conceal the sexual misconduct by C/O Siedel,denied due process,although I did report it to female PA.,treated my injuries.Is ordinary neglect,medical malpractice and neglect,in violation of § 4042,the 8th amendment,28C.F.R. . . . , Wanton infliction of pain and deliberate indifference to a serious medical need,

3) I/M was trans seg that very same morning to U.S.P.Lewisburg (SMU)to U/M G. Nye stated that someone was coming to get me of the transit van again, I was physically assaulted by C/O Sittletto and other B.O.P. personnel on the stairwel on G_Block.

4) I was awakened by LT.Sherman and the use of force team whon claimed that I was kicking on the door as a pretence to unlawfully use the concussion grenade,was shot wuth red mace balls ,black rubber bullets in retaliation for the events which cause the very tranfer there.In violation of the 8th.amend.ment guarantee to be free from wanton infliction of pain,deliberate indifference to a serious medical need, and to § 4042, acted in concert to wilfully and deliberately conceal the injuries caused at schuykill as to the black eye and other visable bruses see exhibit (4-1)dated 8/14/2014,falsified medical records as to the decontaminated with H2O did not happen. has left scars on my body,retalition for the events which caused my transfer there, and used excessive use of force,abuse of process,omition by the C/O to protect.

5) I begen my administrative remedies on / / , and was given a retaliatory incident report as a consequence on 12/11/201 , and shortly thereafter ,B.O.P. took steps to begin filing criminal retaliatory charges and or malicious prosecution and or abuse of process,to coerce my into dropping the sexual misconduct claims against seidel and the assaults against the

THIS IS CONTIUED PAGE (8-3)

TENSEY DARIAN
REG# 41138-018
U.S.P. ALLENWOOD
P.O.BOX 3000
WHITE DEER, PA. 17887

the other unknown C/O's who physically and brutally assaulted me and the medical staff also acted in concert to conceal the extent of the injuries and falsified the treatment rendered and the cause of the injuries see exhibit #(5-1) herein.thus denied equal protection under the law,due process, in violation of the 5th amendment .

6- STATEMENT OF CLAIMS

ABUSE OF PROCESS,MALICIOUS PROSECUTION,RETALITORY PROSECUTION,ORDINARY NEGLIGENCE,& VIOLATIONS AND DEPRIVATIONS OF THE 8th.AMENDMENT GUARANTEE TO BE FREE FROM WANTON INFILCTION OF PAIN,DELIBERATE INDIFFERENCE TO A SERIOUS MEDICAL NEED,MEDICAL MALPRACTICE AND NEGLIGENCE, ASSAULT AND BATTERRY,FALSIFYING AND OR ALTERING MEDICAL RECORDS,DENIED EQUAL PROTECTION UNDER THE LAW, DUE PROCESS,IN VIOLATION OF § 4042,TO PROVIDE APPROPRIATE MEDICAL TREATMENT,EMOTIONAL INJURY, VIOLATIONS OF THE 5th.amendment,ADD CRUEL AND UNUSUAL TREATMENT TO THE 8TH. AMENDMENT VIOLATION,WILFULL failure to investigate the claims of sexual assault,EXCESSIVE USE OF FORCE, FALSIFYING INCIDENT REPORT,RETALIATION FOR EXERSICING PROTECTED RIGHT TO SPEECH IN FILING COMPLAINT AND ADMINISTRATIVE REMEDIES,IN VIOLATION OF THE FIRST AMENDMENT TO THE U.S.CONSTITUTION.RETALIATORY TRANSFER,DISCRIMINATION,

7) PERSONAL INJURY

SCARS ON MY WRISTS AND AROUND MY BODY

Exhibit

2



U.S. Department of Justice

Federal Bureau of Prisons

Program Statement

OPI: OGC

NUMBER: 1350.01

DATE: January 11, 1996

SUBJECT: Criminal Matter Referrals

1. PURPOSE AND SCOPE. To provide procedures for tracking and referring matters for prosecution that occur in Bureau of Prisons facilities or on Bureau of Prisons property, or involve Bureau of Prisons staff.

2. PROGRAM OBJECTIVES. The expected results of this program are:

a. All criminal matters that occur in an institution or on institution grounds, or that involve Bureau of Prisons staff, will be documented and tracked.

b. Each criminal matter will be formally considered for referral to an appropriate law enforcement agency.

c. When a Warden disagrees with a U. S. Attorney's Office decision to decline prosecution on a referred criminal matter, it will be reviewed for possible formal re-presentation to the U. S. Attorney.

progstat

1

© 2015 Matthew Bender & Company, Inc., a member of the LexisNexis Group. All rights reserved. Use of this product is subject to the restrictions and terms and conditions of the Matthew Bender Master Agreement.

41138018

d. If, upon re-presentation of a criminal matter, the U. S. Attorney still does not concur with the Bureau's assessment, the matter will be reviewed by the General Counsel's Office for further action.

3. DIRECTIVES REFERENCED

P.S. 1380.05 Special Investigative Supervisors Manual

(08/01/95)

4. STANDARDS REFERENCED. None.

5. REFERRAL OF CRIMINAL MATTERS. All criminal matters that occur in an institution or on institution grounds, or that involve Bureau of Prisons staff, shall be tracked as described in Section 7 below.

The Special Investigative Supervisor (SIS) shall present each criminal matter to the Warden to determine whether it is to be referred to the appropriate Federal, state, or local law enforcement agency. The SIS or the Warden may consult with institution legal staff regarding the criminal matter prior to the referral.

6. NOTIFICATION TO LEGAL STAFF. When a case is referred to a Federal, state, or local investigative agency for prosecution, the SIS shall notify the institution legal staff, or the Regional Counsel's Office if no legal staff are assigned to that institution.

Legal staff shall follow any case referred to ensure all prosecutions are timely.

When a criminal case is referred to the U. S. Attorney's Office for prosecution, the SIS shall notify the institution legal staff and the Warden as to whether the case was accepted or declined.

When a referral is declined, the Warden shall notify the Regional Counsel's Office, and, if the Warden disagrees with the decision to decline, shall provide a summary of the case to the Regional Counsel with a recommendation for re-presentation of the case to

the U. S. Attorney.

The Regional Counsel shall review and discuss the matter, the reasons for the declination, and the Warden's recommendation with appropriate officials (including if necessary, the Warden, Regional Director, institution legal staff, law enforcement case agent, appropriate U. S. Attorney's Office staff, and the General Counsel).

If, after such discussions, the Bureau believes prosecution is appropriate, the Regional Counsel shall make a formal representation of the criminal matter to the U. S. Attorney. If the U. S. Attorney still does not concur with the Bureau's assessment, the matter shall be referred to the Office of General Counsel for further action.

7. REPORTING AND TRACKING. Effective upon receipt of this Program Statement, all institution SIS's are required to record and report to institution legal staff criminal matters that are appropriate for referral to law enforcement agencies. Institutional legal staff shall track all referrals.

\s\ Kathleen M. Hawk Director

(24)

been determined by a valid and final judgment, that issue cannot again be litigated between the same parties in any future lawsuit.

Criminal Law § 40 - collateral estoppel - test of applicability

4. Where a previous judgment of acquittal was based upon a general verdict, the federal rule of collateral estoppel requires the court to examine the record of the prior proceeding, taking into account the pleadings, evidence, charge, and other relevant matter, and to conclude whether a rational jury could have grounded its verdict upon an issue other than that which the defendant seeks to foreclose from consideration.

Criminal Law § 29 - double jeopardy - collateral estoppel - former acquittal

5. In a case involving an armed robbery of six poker players, the federal rule of collateral estoppel makes wholly impermissible a second prosecution for the robbery of one of the players, where the single rationally conceivable issue in dispute before the jury, which had acquitted the defendant in an earlier trial for the robbery of another of the players, was whether the defendant had been one of the robbers.

Annotation: p.968, infra.

Criminal Law § 29 - double jeopardy - former acquittal

6. The Fifth Amendment's guaranty against double jeopardy protects a man who has been acquitted from having to "run the gantlet" a second time.

Criminal Law § 29 - double jeopardy - former acquittal

7. In a case involving an armed robbery of six poker players, once a jury has determined that there is at least a reasonable doubt that the defendant was one of the robbers, the state cannot present the same or different identification evidence in a second prosecution for the robbery of the same victim in the hope that a different jury may find that evidence more convincing; the situation is constitutionally no different where the second trial relates to another victim of the same robbery.

Criminal Law § 29 - double jeopardy - former acquittal

8. The Fifth Amendment's guaranty against double jeopardy, as made applicable to the states by the Fourteenth Amendment, forbids a state to treat a first trial, at which the defendant is acquitted, as no more than a "dry run" for a second prosecution.

Annotation: p.968, infra.

LED2

4

Darian Tensley - 41138-018

U.S. P Canaan

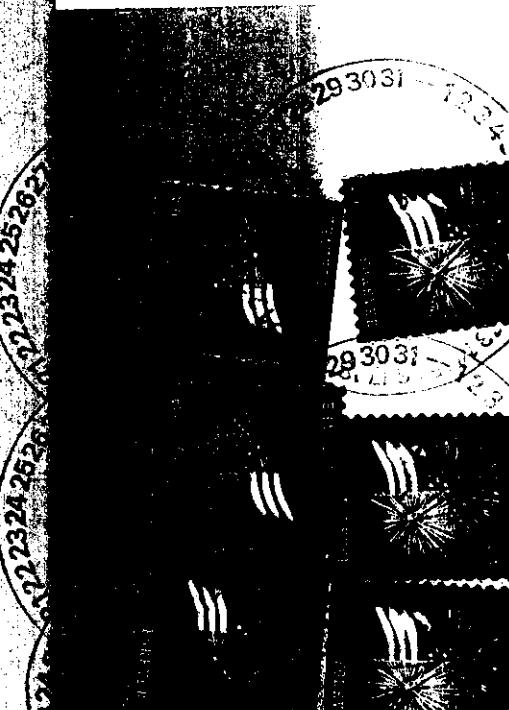
P.O. Box 300
Waymart, PA 18472



U.S. POSTAGE
WAYMART, PA
18472
JAN 26 16
AMOUNT
\$0.00
R2305K138948-07

1000

18503



RECEIVED
SCRANTON

JAN 28 2016

PER
DEPUTY
OLEARK

United States District Court
Middle District of Pennsylvania

William J. Nealon Federal Building
235 North Washington Ave.
Scranton, PA 18503

Legal Mail
1/21/2016
1/21/2016
41138-018